

# EXHIBIT A

October 11, 2021

***VIA ELECTRONIC MAIL & FIRST CLASS U.S. MAIL***

Craig Spencer  
Vice President of Engineering  
York Electric Cooperative, Inc.  
P.O. Box 150  
York, SC 29745  
craig.spencer@yorkelectric.net

**Re: Request To Negotiate New Pole Attachment Agreement and Process Pole Applications As Required By Law**

Dear Mr. Spencer:

I write on behalf of Spectrum Southeast, LLC (formerly Time Warner Entertainment-Advance/Newhouse Partnership) ("Spectrum"), pursuant to the South Carolina Broadband Accessibility Act ("Act"), to request negotiation of a new pole attachment agreement with York Electric Cooperative, Inc. ("York").<sup>1</sup>

The parties' current agreement (entered Jan. 1, 2004) is outdated and fails to comply with the Act in several critical respects. For example, while the contract includes what Spectrum considers to be excessive and unnecessary construction standards – such as requiring attachments maintain a minimum 18 foot clearance height at *any* mid-span and also be a minimum of 7 feet from York's primary neutral conductors – the Act forbids a pole owner from imposing standards that exceed the National Electrical Safety Code. S.C. Code §§ 58-9-3030(A) & (D)(2).

Moreover, separate and apart from any current contract provisions, the Act requires cooperative pole owners to treat all attachers in a nondiscriminatory manner, including offering "nondiscriminatory rates, fees, charges, terms, and conditions for attached facilities." *Id.* §§ 58-9-3030(A) & (C)(1). However, Spectrum is concerned that York may be affording other attachers, including its affiliate Comporium, more favorable standards for broadband deployment, and seeks to ensure a new agreement provides non-discriminatory terms.

I also understand that York is refusing to allow Spectrum to submit applications with more than 25 poles per week and has denied Spectrum's reasonable request to increase that limit for certain

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<sup>1</sup> See S.C. Code § 58-9-303(A)(2) (providing "a communications service provider may submit to an electric cooperative a written request to negotiate agreements addressing the attachment or placement of facilities . . . by the communications service provider on or in the existing or new poles or structures of the electric cooperative" and that the "[t]he parties must negotiate in good faith for at least sixty days after the written request").

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areas.<sup>2</sup> While the parties' current pole attachment agreement is silent as to any limits on the number of poles that must be processed in a timely manner, please be advised that Section 58-9-3030(B)(1) of the Act requires cooperatives to comply with the timeframes/pole counts set forth in 47 C.F.R. § 1.1411, which are the Federal Communications Commission's ("FCC") "access" regulations. S.C. Code § 58-9-3030(B)(1).<sup>3</sup> Specifically, pursuant to 47 C.F.R. § 1.1411(g), a pole owner is required to process the lesser of 300 poles or 0.5% of the pole owner's poles in the state. For a pole owner that owns more than 50,000 poles (like York), that means York is required to process at least 250 poles every 45 days (or 2,500 poles within 60 days).

York's unilateral and unlawful permit limitation is impeding Spectrum's Rural Digital Opportunity Fund network deployments and frustrating South Carolina's policy "to facilitate access to broadband services at all locations in the State" through the "efficient deployment of broadband facilitates." S.C. Code § 58-9-3000(B)(4) & (7). Indeed, beyond the requisite timeframes, Section 58-9-3030(B)(1) of the Act states that "an electric cooperative shall not withhold authorization or delay its decision to provide authorization to a communications service provider to install, maintain, own, operate, or use the communications service provider's attached facilities on electric service infrastructure owned or controlled by the electric cooperative." York's unilateral permit limitation constitutes an unlawful delay and denial of authorization.<sup>4</sup>

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In sum, Spectrum requests that York immediately (1) begin processing the mandatory number of poles, as per FCC regulations; (2) review Spectrum's attached template, which is drafted in accordance with the Act, so the parties may begin negotiations promptly; and (3) provide Spectrum with York's pole attachment agreement with Comporium, so that Spectrum can ensure nondiscriminatory treatment.<sup>5</sup> Please be advised that Spectrum reserves all rights and remedies

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<sup>2</sup> See Email from R. Lupinio (Spectrum) to C. Spencer (York) (Sept. 7, 2021 at 10:49 AM ET) ("Currently we are adhering to the 25 poles per application per week, but were wondering if that could be increased to 40 to 50 or even more if needed for certain areas."); Email from C. Spencer (York) to R. Lupino (Spectrum) (Sept. 7, 2021 at 1:37 PM ET) (rejecting Spectrum's request, stating "[w]e have discussed this possibility internally and we believe that until we get the kinks worked out of the application process we do not need to increase").

<sup>3</sup> Section 58-9-3030(B)(1) of the Act requires that "[a]ll review by an electric cooperative of requests by a communications service provider to attach facilities, make-ready activities, and all pole or support structure replacement or expansions . . . shall be completed by the electric cooperative . . . *within the timeframes and other make-ready requirements set forth in 47 C.F.R. Section 1.1411* under federal law for utilities subject to regulation by the FCC pursuant to the Federal Pole Attachments Act (47 U.S.C. Section 224) as it exists on September 15, 2020."

<sup>4</sup> York has also appeared to withhold permit requests by Spectrum due to shifting requirements for what information must accompany a permit request. See Email from P. Quinn (York) to J. Graber (Charter) (Sept. 27, 2021 at 12:18 PM ET) (confirming that York has not approved permit requests Spectrum submitted on August 9, 24, and 30, 2021 because "[w]e need to receive the additional info requested before we review them"); Email from P. Quinn (York) to J. Graber (Charter) (Sept. 24, 2021 at 12:28 PM ET).

<sup>5</sup> See S.C. Code § 58-9-3030(C)(1) ("An electric cooperative that provides any broadband facility or any broadband service that is not retail broadband service to a broadband affiliate or to any other person or

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in connection with this matter, including its rights to pursue administrative relief before the South Carolina Public Service Commission under Section 58-9-3030(A)(2)) of the Act.

We look forward to hearing from you soon.

Best regards,

A handwritten signature in blue ink, appearing to read 'Paul Werner', with a stylized, flowing script.

Paul Werner  
Abraham J. Shanedling  
for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

Enclosure

cc:  
Philip Quinn, [philip.quinn@yorkelectric.net](mailto:philip.quinn@yorkelectric.net)  
Ben Jones, [ben.jones@yorkelectric.net](mailto:ben.jones@yorkelectric.net)

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entity must do so pursuant to a written contract, *at market rates, and on terms and conditions that are not harmful to competition.*" (emphasis added)).